

**REMARKS**

Upon entry of the foregoing amendments, claims 1-8, 10, 12-43, 45-54 and 56-58 are pending in the application, with claims 1, 43, and 51 being the independent claims. Claim 9, 11, 44, and 55 have been cancelled without prejudice or disclaimer.

Based on the above Amendment and the following Remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Applicant initially notes that the Office Action on pages 9-12, in section 5, rejects claims 9-15 under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2203/0051255 to Bulman et al. in view of the article "Virtual Postman – Real-Time, Interactive Virtual Video" written by Alan J. Lipton. Applicant respectfully submits that the article "Virtual Postman – Real-Time, Interactive Virtual Video" does not qualify as prior art under any section of 35 U.S.C. § 102, and therefore cannot be used as prior art in making a rejection under 35 U.S.C. § 103. See M.P.E.P. § 2141.01. For example, most notably, the article does not qualify as prior art under § 102(b) because the publication date of the article (October 25, 1999) is not more than one year prior to the date of the application for patent (October 24, 2000). Further, the article does not qualify as prior art under § 102(a) because the sole inventor of this application is the same person as the sole author of the article, and the invention was not, therefore, described in a printed publication in this or a foreign country before the invention by the applicant for patent. Hence, these claims are allowable. Claims 9 and 11 are canceled, and claim 15 is amended. The allowable

subject matter from these claims are now recited in amended claim 1. Applicant therefore respectfully requests that this rejection be withdrawn.

The Office Action on pages 2-7, in section 2, rejects claims 1-5, 16-20, 29-42, and 51-58 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2203/0051255 to Bulman et al ("Bulman"). Applicant respectfully traverses this rejection.

Amended independent claim 1 recites that the step of analyzing comprises "at least one of the steps of determining a rigidity of said object, determining a periodic sequence corresponding to said object, or determining a periodic sequence corresponding to said object and at least one parameter describing an appearance of said object." The feature of determining a rigidity of said object was previously recited in now canceled claim 9; the feature of determining a periodic sequence corresponding to said object was previously recited in now canceled claim 11; and the feature of determining a periodic sequence corresponding to said object and at least one parameter describing an appearance of said object was previously recited in amended claim 15.

As noted above, claims 9, 11, and 15 have been rejected under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2203/0051255 to Bulman et al. in view of the article "Virtual Postman – Real-Time, Interactive Virtual Video" written by Alan J. Lipton. In making the rejection, the Office Action relies on the article as support for the features previously recited in claims 9, 11, and 15. Because the article does not qualify as prior art, Applicant submits that the features previously recited in now canceled claims 9 and 11 and amended claim 15 are allowable. Accordingly, claim 1 has been amended to recite the allowable subject matter. Further, because Bulman does not teach or

suggest the recited allowable subject matter, claim 1 is neither anticipated nor rendered obvious by Bulman.

Claims 2-5, 16-20, and 29-42 depend variously from claim 1 and are allowable as being dependent from an allowable claim.

Independent claim 51 has been amended to recite the steps of "identifying a functional area in said video stream; and assembling in real time a virtual video based on said background model and said synthetic character, and said functional area." These particular features were previously recited in now canceled claim 55. In making the rejection of claim 55, the Office Action relies on Figure 19 (step 212) and paragraphs 265-269 of Bulman. Applicant notes that Bulman is a continuation-in-part application having a filing date of February 25, 2002. Although Bulman claims priority to U.S. Patent No. 6,351,265 to Bulman (the '265 patent), which has a filing date of April 28, 1999, the portions relied upon by the Office Action do not appear in the '265 patent. The '265 patent is concurrently submitted with a 6<sup>th</sup> Information Disclosure statement. Specifically, Figure 19 and the corresponding discussion in paragraphs 265-271 do not appear anywhere in the '265 patent. These portions are therefore considered new matter and have a priority date of February 25, 2002. Because the date of the new matter is approximately sixteen months after the filing date of the present application, those portions cannot be relied upon in making the prior art rejection. Applicants therefore submit that the features previously recited in now canceled claim 55 are allowable. Because claim 51 has been amended to include these allowable features, claim 51 is also allowable.

Claims 52-54 and 56-58 depend from claim 51 and are allowable as being dependent from an allowable claim.

Applicant therefore respectfully requests that this rejection be withdrawn.

The Office Action on pages 7-9, in section 4, rejects claims 6-8 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2203/0051255 to Bulman et al. in further view of the article "Moving Target Classification and Tracking from Real-time Video" written by Alan J. Lipton et al. Claims 6-8 depend variously from claim 1. As discussed above, claim 1 has been amended to recite allowable subject matter. Claim 6-8 are therefore allowable as being dependent from an allowable claim. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

The Office Action on pages 12-14, in section 6, rejects claims 21-28 under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2203/0051255 to Bulman et al. in view of the article "Virtual Postman – Real-Time, Interactive Virtual Video" written by Alan J. Lipton. Applicants respectfully traverse this rejection for at least the following two reasons. First, as discussed above, the article cited in the Office Action does not qualify as prior art. Consequently, the Office Action fails to establish a *prima facie* case of obviousness. Second, claims 21-28 depend variously from claim 1, which has been amended to recite allowable subject matter as discussed above. Hence, claims 21-28 are allowable as being dependent from an allowable claim. For at least these reasons, Applicant respectfully requests that this rejection be withdrawn

The Office Action on pages 15-16, in section 8, rejects claim 44 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2203/0051255 to

Bulman et al. in view of the article "Moving Target Classification and Tracking from Real-time Video" written by Alan J. Lipton et al. and in further view of the article "Virtual Postman – Real-Time, Interactive Virtual Video" written by Alan J. Lipton. Applicant respectfully traverses this rejection for at least the following two reasons. Applicant initially notes that, as discussed above, the article "Virtual Postman – Real-Time, Interactive Virtual Video" does not qualify as prior art. Therefore, the Office Action fails to establish a *prima facie* case of obviousness. Because the Office Action fails to establish a *prima facie* case of obviousness, Applicant submits that the features recited in claim 44 are allowable. Claim 44 has been canceled, and the features of claim 44 are recited in amended claim 43. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

The Office Action on pages 14-15, in section 7, rejects claims 43 and 45-50 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2203/0051255 to Bulman et al. in further view of the article "Moving Target Classification and Tracking from Real-time Video" written by Alan J. Lipton et al. Independent claim 43 has been amended to include the features of allowable and now canceled claim 44. Specifically, claim 43 has been amended to recite that the analyzing step comprises representing said moving object by a periodic sequence. Further, because Bulman does not teach or suggest the recited allowable subject matter, claim 43 is neither anticipated nor rendered obvious by Bulman. Claims 45-50 depend from claim 43 and are allowable as being dependent from an allowable claim. Applicant therefore requests that this rejection be withdrawn.

The Office Action on pages 16-23, in section 9, rejects claims 1-58 under 35 U.S.C. § 102(a) as being anticipated by the article "Virtual Postman – Real-Time, Interactive Virtual Video" written by Alan J. Lipton. As discussed above, this article does not qualify as prior art. Applicant therefore respectfully requests that this rejection be withdrawn.

The Office Action on page 24, in section 10, objects to claims 45 and 54 because of informalities. Applicant has amended claims 45 and 54 to remove the noted informalities.

Applicant therefore respectfully requests that this objection be withdrawn.


CONCLUSION

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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